IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 19TH JANUARY 2007 / 29TH PAUSHA 1928

WP(C).No. 18506 of 2006(C)

PETITIONER:

M/S. SIVADAS & SONS,
ENGINEERS & CONTRACTORS, T.C.VIII/1632,
THIRUMALA JUNCTION, THIRUVANANTHAPURAM,
REP. BY ITS MANAGING PARTNER, S.ASHOK KUMAR.

BY ADV. SRI.AJITH KRISHNAN

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY THE CHIEF SECRETARY,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. **THE SECRETARY TO PUBLIC WORKS DEPARTMENT**
   GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

3. **THE FINANCE SECREARY,**
   GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
   THIRUVANANTHAPURAM.

4. **CHIEF ENGINEER,**
   P.W.D. ROADS, THIRUVANANTHAPURAM.

5. **SUPERINTENDING ENGINEER,**
   P.W.D. ROADS, SOUTH CIRCLE, THIRUVANANTHAPURAM.

6. **EXECUTIVE ENGINEER,**
   P.W.D. ROADS DIVISION, P.M.G.,THIRUVANANTHAPURAM.

*** 7TH RESPONDENT IMPLEADED**

7. **EXECUTIVE ENGINEER, P.W.D. NATIONAL HIGHWAY DIVISION, THIRUVANANTHAPURAM.**

*** 7TH RESPONDENT IS IMPLEADED AS PER ORDER DT.19.1.2007 IN IA. 1135/2007.**

BY SPL. GOVERNMENT PLEADER SRI.M.P.PRAKASH (FINANCE_

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 18506 OF 2006-C

JUDGMENT

The petitioner was a contractor, who did certain works for the respondents, in the year 1980. Even according to the petitioner, it could complete only 90% of the work. The petitioner submits, it could not complete the work because of the failure of the respondents to supply bitumen in time. It has not been paid the final bill amount, the retention amount and the amount of Rs.20,000/- deposited in the Treasury as security. So, the petitioner preferred Ext.P2 representation claiming those amounts on 18.7.2005. From Exts.P3 and P4 inter-departmental communications, copies of which were marked to the petitioner, it would appear that the matter is engaging the attentions of the officers concerned. The petitioner again filed Ext.P5 representation and thereafter this Writ Petition is filed, praying for a direction to pay the balance bill amount of Rs.2,45,674/- and the security deposit of Rs.20,000/-.

2. The 6th respondent has filed a counter affidavit, stating that in view of the delay, the records are not available in the office and that the files relating to the claim of the petitioner could not be traced out. This will be

evident from Ext.R6(a) communication of the Executive Engineer, P.W.D. National Highway Division dated 27.7.2006.

3. Heard the learned counsel on both sides. There is inordinate delay from the part of the petitioner to claim the amount. So, it is guilty of delay and laches. It is also not possible to ascertain now, whether the work was terminated at the risk and cost of the petitioner. No explanation is forthcoming from the petitioner, why it did not pursue the matter before any court of law, during the last several years. Therefore, I feel that it is not safe at this distance of time to issue any direction to the Government in the matter. Accordingly, the Writ Petition fails and it is dismissed.

19th January, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/